

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY


(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 03 NOV 2005

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Applicant's or agent's file reference PLANM2PCT		FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/FI2004/000434		International filing date (day/month/year) 07.07.2004		Priority date (day/month/year) 07.07.2003
International Patent Classification (IPC) or national classification and IPC A61C7/08				
Applicant LM-INSTRUMENTS OY et al.				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 07.02.2005		Date of completion of this report 02.11.2005		
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Salvatore, C Telephone No. +49 89 2399-7194		



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/FI2004/000434

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-13 as published

Claims, Numbers

1-25 as published

Drawings, Sheets

1/3-3/3 as published

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/FI2004/000434

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	9,14,17-25
	No: Claims	1-8,10-13,15,16
Inventive step (IS)	Yes: Claims	19-25
	No: Claims	1-18
Industrial applicability (IA)	Yes: Claims	1-25
	No: Claims	

2. Citations and explanations (Rule 70:7):

see separate sheet

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:
D1:EP-A1-0 315 777

2. Novelty, Art. 33(2) PCT:

- 2.1 The present application does not meet the requirements of Art. 33(2) PCT because the subject matters of independent claim 1 is not new in the sense of Art. 33(2) PCT :

Document D1 discloses an odontological device for guiding the occlusion of an individual, the guide having a U-shaped arch with concaves, recesses and blanks for accepting teeth of the user, having an isthmus separating the lower arch from the upper arch and having a lower wing construction which limits the tongue and contributes to keeping the guide in the mouth (D1:Fig. 1,2). It is noted that the the current claim 1 of the application states that the wing "constricts the tongue at least sideways". D1: Fig.1 shows that the wing extends for a certain distance along the extent of the lower dental arch, and hence it does not just touch the tip of the tongue, but rather also touches the sides of the tongue, in so far as the there is no clear definition of where the tip of the tongue finishes and the sides of the tongue start. Furthermore, D1: Fig. 2 shows that the lower wing extends below the lower side of the front labial portion of the device, and the shape of the former is such that it will contact the lower jaw. The fact that the device encompasses the teeth and that it is supported by the jaw further validates the idea that the wing of D1 also helps to stabilize the device when in the mouth.

- 2.2 Dependent claims 2-18 do not contain any features which, in combination with the features of any claim to which they refers, meet the requirements of the PCT in respect of novelty and/or inventive step, since this subject matter is either anticipated by D1 or appears to be an obvious modification of the device of D1.

4. Based on the cited prior art, claims 19-25 would appear to satisfy the requirements on novelty and inventive step.